

with civil disturbances. Where installation fire departments have mutual aid agreements with nearby civil communities, the installation commander is authorized to provide emergency civilian or mixed civilian/military firefighting assistance. In the absence of a mutual aid agreement and when it is in the best interest of the United States, a commander with Group Three approval authority is authorized to provide emergency civilian or mixed civilian/military assistance in extinguishing fires and in preserving life or property from fire, within the vicinity of an installation. In either case, civilian firefighters may be used provided:

(a) In civil disturbance situations where there is significant danger of physical harm to firefighters, the civilian employees volunteer for the assignment. (DoD civilian employees acting in this volunteer capacity are acting as Federal employees.)

(b) Firefighting equipment will not be used for riot control.

(c) Civil authorities recognize that prior to the commitment of Federal forces to assist in restoring law and order, the protection of firefighting crews and equipment is the responsibility, in ascending order, of municipal, county, and State officials. Failure on the part of such authorities to recognize this responsibility and/or to provide adequate protection will be grounds for refusal to commit installation resources or for withdrawal of resources already committed.

(4) Requests for Groups One, Two, or Three resources, and for renewal of outstanding loans, may be denied at any level in the chain of command down to and including commanders delegated Group Three approval authority.

(c) *Processing of requests.* (1) All requests will be promptly submitted through channels to the appropriate approving authorities using the format established by the DoD Executive Agent.

(2) Requests will be forwarded and processed in keeping with the degree of urgency dictated by the situation.

(3) Requests received by personnel of Defense agencies will be referred to local military commanders for processing, except that DSA subordinate

agencies will forward requests for firefighting assistance to DSA.

(4) Request from civil law enforcement agencies for training assistance related to the control of civil disturbances will not be approved at the local level. Such requests should be referred to the nearest U.S. attorney, Department of Justice.

(d) *Reporting of requests.* (1) Reports of all requests for military resources (approved, denied, or pending) will be prepared by all appropriate approving authorities, using the format established by the DoD Executive Agent, and forwarded through channels as follows:

(i) To the military department headquarters, in the case of requests received in the CONUS by the four Services.

(ii) To the DoD Executive Agent, in the case of requests for firefighting assistance received by the Defense Supply Agency.

(iii) To the JCS, in the case of requests received by organizations or installations over which the commanders of the unified and specified commands exercise command authority.

(2) Reports received by the military department headquarters and JCS will be transmitted to the DoD Executive Agent, who, in turn, will transmit information copies of all approved requests for Groups One and Two military resources to the General Counsel of the DoD and the Deputy Attorney General of the United States.

(3) In addition, a weekly summary report of all requests will be compiled by the DoD Executive Agent, showing action taken (approved, denied, or pending) and submitted to the General Counsel of the DoD, the Assistant Secretary of Defense (Installations and Logistics), and the Deputy Attorney General of the United States. Negative summary reports are required.

(4) The reporting requirements prescribed herein are assigned Report Control Symbol DD-A(AR)1112.

#### §215.10 Funding.

(a) Reporting requirements to provide for financing costs associated with civil disturbance operations, to include reimbursement of military department expenditures, will be in accordance

with DoD Instruction 7200.9, "Financing and Reporting Costs of Military Resources Used in Civil Disturbances," January 26, 1970,<sup>4</sup> and DoD Executive Agent implementing instructions.

(b) Military assistance (Groups One, Two, and Three military resources) provided to civil authorities, under the provisions of §215.9, will be on a reimbursable or reclaimable basis as appropriate.

## **PART 216—MILITARY RECRUITING AND RESERVE OFFICER TRAINING CORPS PROGRAM ACCESS TO INSTITUTIONS OF HIGHER EDUCATION**

Sec.

216.1 Purpose.

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APPENDIX A OF PART 216—MILITARY RECRUITING SAMPLE LETTER OF INQUIRY

APPENDIX B OF PART 216—ROTC SAMPLE LETTER OF INQUIRY.

AUTHORITY: 10 U.S.C. 983.

SOURCE: 63 FR 56821, Oct. 23, 1998, unless otherwise noted.

### **§216.1 Purpose.**

This part:

(a) Implements the National Defense Authorization Act of 1995 (108 Stat. 2663),

(b) Implements 10 U.S.C. 983, and

(c) Implements the Omnibus Consolidated Appropriations Act, 1997 (110 Stat. 3009).

(d) Updates policy and responsibilities relating to the management of covered schools that have a policy of either denying, or effectively preventing military recruiting personnel entry to their campuses, access to their students, or access to student recruiting information.

(e) Updates policy and responsibilities relating to the management of covered schools that have an anti-ROTC policy.

<sup>4</sup>Although this resolution has been placed in the Statutes at Large as Pub. L. 90-331, 82 Stat. 170, it has not been codified; it is set out in the notes to 18 U.S.C. 3056.

### **§216.2 Applicability.**

This part applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as "the DoD components"). The policies herein also affect the Departments of Transportation, Labor, Health and Human Services, Education, and Related Agencies. The term "Military Services," as used herein, refers to the Army, the Navy, the Marine Corps, the Air Force, and the Coast Guard, including their Reserve or National Guard components. The term "Related Agencies," as used herein, refers to the Armed Forces Retirement Home, the Corporation for National and Community Service, the Corporation for Public Broadcasting, the Federal Mediation and Conciliation Service, the Federal Mine Safety and Health Review Commission, the National Commission on Libraries and Information Science, the National Council on Disability, the National Education Goals Panel, the National Labor Relations Board, the National Mediation Board, the Occupational Safety and Health Review Commission, the Physician Payment Review Commission, the Prospective payment Assessment Commission, the Social Security Administration, the Railroad Retirement Board and the United States Institute of Peace.

### **§216.3 Definitions.**

(a) *Anti-ROTC policy.* A policy or practice whereby a covered school prohibits or in effect prevents the Secretary of Defense from maintaining, establishing, or efficiently operating a unit of the Senior ROTC at the covered school, or prohibits or in effect prevents a student at the covered school from enrolling in a Senior ROTC unit at another institution of higher education.

(b) *Covered school.* An institution of higher education, or a subelement of an institution of higher education, subject to the following clarifications:

(1) In the event of a determination (§216.5) affecting only a subelement of a parent institution (see §216.3(d)), the limitations on the use of funds